

# **LOVE CANAL AREA MASTER PLAN**

## **FINDINGS STATEMENT**

### **PREPARED FOR:**

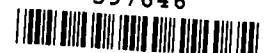
**THE LOVE CANAL AREA REVITALIZATION AGENCY  
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### **PREPARED BY:**

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New York State Environmental Quality Review

**FINDINGS STATEMENT**

for

**THE LOVE CANAL AREA MASTER PLAN**

Pursuant to Article 8 (State Environmental Quality Review Act - SEQRA) of the Environmental Conservation Law and 6 NYCRR Part 617, The Love Canal Area Revitalization Agency, as Lead Agency, makes the following findings.

**Name of Action**

Adoption of the Love Canal Area Master Plan by the Love Canal Area Revitalization Agency (LCARA).

**Description of the Action**

The Love Canal Area Revitalization Agency proposes to adopt a Master Plan to guide the future use and redevelopment of the approximately 350 acre Love Canal Emergency Declaration Area (EDA) and certain contiguous areas located just east of the EDA. The Master Plan proposes resettlement of areas identified as being suitable for residential or other uses by the New York State Commissioner of Health (Sub-areas 4-7). Areas not deemed suitable for residential use without remediation, or cleaning up, of contaminated soil, the areas east of the Canal (Sub-areas 2 and 3), will be developed as light industrial/office park. A non-habitable area south of the LaSalle Expressway will provide a gateway to the City of Niagara Falls. Additional park areas are proposed in the habitable area. It is expected that the City of Niagara Falls and the Town of Wheatfield would amend their Master Plans and zoning ordinances to reflect the changes detailed in the Love Canal Area Master Plan.

**Location**

The Love Canal Emergency Declaration Area is a +/- 350 acre parcel located in Niagara County on the eastern edge of the City of Niagara Falls with a portion within the Town of Wheatfield. The site is about 1/4 mile north of the Niagara River.

## **Agency Jurisdiction**

The Love Canal Area Revitalization Agency was created to oversee the revitalization of the Love Canal EDA as per its enabling legislation dated June 17, 1980. By virtue of this legislatively mandated authority, the LCARA is responsible for the development and formal adoption of the Love Canal Area Master Plan.

Furthermore, the Disaster Preparedness Commission has the primary responsibility of overseeing the expenditure of all funds by LCARA in excess of \$25,000 as well as approve the Love Canal Area Master Plan as part of its findings in the SEQR process. As an Involved Agency, the DPC is obligated to issue a written finding as per 6 NYCRR Part 617.19 (c) (1) - (5) before LCARA can implement the Love Canal Area Master Plan. However, LCARA can formally adopt the Love Canal Area Master Plan before the Disaster Preparedness Commission issues its findings.

Other approvals and reviews may be necessary from the following agencies, dependent upon the scope of site-specific development proposals:

Department of Transportation: Curb cuts.

City of Niagara Falls: Water and sewer extensions, rezoning and site plan review.

City of Niagara Falls/Town of Wheatfield: Rezoning and Site plan review.

NYS Department of Environmental Conservation: Wetland permit (if necessary).

United States Army Corps of Engineers: Wetland permit (if necessary).

**Date Final GEIS Filed:** May 30, 1990

## **Facts and Conclusions in the DGEIS Relied Upon to Support the Decision:**

WHEREAS, review of the Environmental Assessment Form (EAF) was conducted and the Love Canal Area Revitalization Agency, hereinafter referred to as LCARA, was established as Lead Agency by virtue of its authority to adopt the Master Plan for the Love Canal EDA and undertake revitalization activities as per its enabling legislation dated June 17, 1980. All involved and other agencies were notified of LCARA's intent to become Lead Agency.

WHEREAS, LCARA made a determination of significance of the Proposed Action on December 6, 1989, undertook necessary scoping and requested that a Draft Generic Environmental Impact Statement (DGEIS) be prepared; and

WHEREAS, the DGEIS was prepared by The Saratoga Associates; and

WHEREAS, the proposed DGEIS was submitted to the LCARA on December 6, 1989; and

WHEREAS, the LCARA determined that the DGEIS was complete with respect to scope, content and adequacy on December 6, 1989 and the LCARA filed the Notice of Completion with the proper involved agencies as required by SEQR; and

WHEREAS, the LCARA required that a public hearing on the Proposed Action be held on January 4, 1990 to accept comments and recommendations from involved agencies, interested parties and the general public, and that a Notice of Public Hearing be filed jointly with the Notice of Completion and published in the appropriate newspaper serving the City of Niagara Falls and surrounding region; and

WHEREAS, the Notice of Completion and Notice of Public Hearing and the DGEIS were filed on December 6, 1989; and

WHEREAS, all involved agencies were notified of the public hearing and all interested parties and general public were notified of same through a published newspaper notice and that the comment period on DGEIS would close on January 22, 1990; and

WHEREAS, two public hearings were held on January 4, 1990 from 2:00 PM to 4:00 PM and from 6:00 PM to 8:00 PM at the Frontier Volunteer Fire Hall located at Frontier Avenue at 102nd Street; and

WHEREAS, the LCARA received and accepted written comments from the involved agencies, interested parties and the general public through January 22, 1990; and

WHEREAS, the LCARA caused to be prepared a Final Generic Environmental Impact Statement (FGEIS) pursuant to 6 NYCRR Part 617; and

WHEREAS, The Saratoga Associates prepared the FGEIS; and

WHEREAS, the FGEIS was submitted to LCARA on May 30, 1990; and

WHEREAS, the LCARA determined that the FGEIS was complete with respect to inclusion of written and verbal comments into the DGEIS and adequacy of response on May 30, 1990 and filed the Notice of Completion and FGEIS with the proper involved agencies as required by SEQR; and

WHEREAS, the Notice of Completion and FGEIS were filed on May 30, 1990 ; and

WHEREAS, all involved agencies, interested parties and general public were notified that the FGEIS was deemed complete by LCARA, distributed to the above parties; and

WHEREAS, the LCARA thoroughly reviewed and studied the DGEIS and FGEIS, as well as written and verbal comments;

NOW, THEREFORE, the LCARA, in accordance with 6 NYCRR Section 617.9, makes the following decisions and determinations with respect to the five alternatives for redeveloping and resettling the Love Canal EDA in light of its legislatively mandated mission to revitalize the Love Canal EDA.

- 1) The Love Canal EDA under the No Action Alternative would remain in its present condition and minimal maintenance activities undertaken by the LCARA would continue. The No Action Alternative will not produce any beneficial impacts for the City of Niagara Falls or the surrounding region generally. It will simply maintain the EDA's present ghost town appearance and perpetuate the feelings of uncertainty expressed by residents remaining at the Love Canal EDA.
- 2) The Demolition/Sanctuary Alternative envisions demolition of all structures at the EDA thereby creating an approximately 350 acre passive greenspace area within the City of Niagara Falls. The Demolition/Sanctuary Alternative would establish a program to induce an awareness of the toxic chemical problem throughout the United States, an image that the LCARA Board does not wish to perpetuate. This alternative contradicts identified goals of LCARA for revitalizing the EDA as stated in the Agency's enabling legislation as well as the recommendations of the Land Use Advisory Committee which was charged with identifying the best use for the land surrounding the fenced containment area.
- 3) The Resettlement-In-Kind Alternative achieves the ultimate LCARA goal of revitalization of the EDA. However, this alternative proposes residential rehabilitation in Sub-areas 2 and 3. These existing homes have not been maintained in recent years and are much more deteriorated than those in Sub-Areas 4 and 5. Therefore, the Resettlement-In-Kind Alternative does not fully satisfy the goals and objectives of LCARA for revitalizing the EDA.

Refer to Findings Statement Section A.8.3 (a) for further explanation regarding the condition of the units in Sub-Areas 2 and 3.

4) The PUD Concept could achieve the ultimate goal of returning the Love Canal EDA to productive use. The PUD Concept, however, proposes commercial development in Sub-areas 6 and 7. Presently, extensive commercial development is occurring along Williams Road on property owned by Forest City Enterprises. The Town of Wheatfield has zoned this land for commercial development adjacent to the Love Canal EDA east of Williams Road and is presently being developed by Forest City Enterprises. LCARA does not wish to locate commercial uses in Sub-Areas 6 and 7, located west of the Containment Area, and adjacent to the residential area along 93rd Street. LCARA has stated that since Williams Road is being developed as a major commercial corridor, it would be beneficial to contain all commercial activity at the Love Canal EDA to Sub-areas 2 and 3, located east of the Containment Area and adjacent to Williams Road. Also, single family residential use is proposed in the PUD Concept in Sub-Areas 2 and 3. For the reason stated in number 3 above (deteriorated condition of the existing housing units in 2 and 3), this would not be feasible. Therefore, the PUD Concept does not fully satisfy the goals and objectives of LCARA for revitalizing the the Love Canal EDA.

5) The Preferred Alternative satisfies LCARA's goal for revitalization of the Love Canal EDA. Proposed medium density residential in Sub-areas 6 and 7 will be compatible with the residences along 93rd Street. Commercial uses proposed for Sub-areas 2 and 3 are in proximity to an extensive area of existing or proposed commercial activities along Williams Road. Furthermore, since the containment area is to be screened and fenced, it will act as a visual and physical buffer between commercial activities in Sub-areas 2 and 3 and residential uses in Sub-areas 6 and 7. Re-use of the 93rd Street School as an educational facility will complement proposed uses in Sub-areas 6 and 7 as well as existing single family residential uses in the Black Creek Village and 93rd Street areas. Therefore, the Preferred Alternative fully satisfies the goals and objectives of LCARA in revitalizing the EDA.

The impacts to existing residents resulting from development of light industrial/office park uses in Sub-Areas 2 and 3 and the mitigation measures to alleviate these impacts are dealt with in the section of the Findings Statement entitled "Project Description."

6) Consistent with social, economic and other essential considerations from among the reasonable alternatives thereto, the Preferred Alternative is one which minimizes

or avoids adverse environmental effects to the maximum extent practicable, including the effects disclosed in the DGEIS and FGEIS.

- 7) Consistent with social, economic and other essential considerations, to the maximum extent practicable, the adverse environmental effects revealed in the environmental impact process and in the DGEIS and FGEIS will be minimized or avoided by incorporating as conditions those mitigative measures which were identified as practicable.

In making its decisions and determinations under SEQR, LCARA has relied upon the environmental, social, economic and other factors and standards set forth below, and in the FGEIS, and the facts and conclusions in the FGEIS set forth below, all of which have formed the basis of the LCARA's decision:

#### **A. Previous Proceedings**

##### **A.1 Habitability Decision**

On September 27, 1988, the Commissioner of Health of the State of New York issued a Habitability Decision for the Love Canal EDA. In order to prepare the Habitability Decision, according to the Commissioner of Health, "one of the most extensive environmental studies ever conducted was undertaken through a joint effort involving the U.S. Environmental Protection Agency, the U.S. Centers for Disease Control and the New York State Departments of Health and Conservation." These agencies make up the Technical Review Committee (TRC), which was charged with overseeing the remediation efforts at the Love Canal and developing criteria for determining whether the EDA could be declared habitable. These criteria were adopted by the TRC in December 1986.

"Habitable" was defined as suitable for normal residential use without any restrictions. That means that families could reside within the Love Canal EDA without any adverse psychological or physiological impacts in doing so.

The Commissioner of the New York State Department of Health, Dr. David Axelrod, has issued a Decision on Habitability for the Love Canal EDA which accounts for the location of the toxic waste containment facility. The Decision on Habitability states on page 1 that, "The conclusions regarding the habitability of the EDA assume that all safeguards will continue to prevent further leakage from the Love Canal Containment Area. Thus, the containment and leachate treatment system will be maintained and operated under effective, continuous and clearly accountable management; and the effectiveness of the containment and leachate treatment system will continue to be monitored and reported on an annual basis. The New

York State Department of Environmental Conservation is committed to implementing these actions."

Because there are no official standards or guidelines for most chemicals found in Love Canal, a panel of scientists selected by the Technical Review Committee recommended using a comparison approach to decide on habitability. The idea was to test soil and air samples for evidence of chemical contamination in the EDA and in comparison areas outside the EDA. The TRC and members of the public helped select the comparison areas. The comparison areas were residential neighborhoods in Western New York at least half a mile from a known landfill. The sites had to have similar geological characteristics as that of the EDA. There were 4 comparison areas used in the Habitability Study.

To compare the different neighborhoods, all were tested for evidence of particular Love Canal Indicator Chemicals (LCIC's). These chemicals were selected because the LCIC's are known to be present in the Love Canal, they move easily through soil or water and they are long lasting. High concentrations of them could signal the presence of other Love Canal contamination.

The only known guideline for 2,3,7,8-tetrachlorodibenzene-p-dioxin (2,3,7,8-TCDD) is the CDC level of concern of 1.0 ppb in residential surface soil. As stated in the habitability criteria (NYSDOH and DHHS/CDC, 1986), "A review of all federal and New York State standards, criteria or guidelines for chemicals in the Love Canal and the EDA indicates that a relevant and applicable standard exists only for 2,3,7,8-TCDD in residential soils at this time." Since a guideline is available for dioxin, comparison sampling was deemed unnecessary for the soil assessment for dioxin. Therefore, according to the habitability criteria, the conditions for a neighborhood in the EDA to be considered habitable is that soil sample measurements of 2,3,7,8-TCDD be less than 1 ppb.

As a result of the testing activities relating to the Habitability Study, the contamination levels measured in the habitability study are vastly lower than those detected a decade ago, when the testing was concentrated on the basements of homes next to the Canal dumpsite. The results are described further below:

## A.2 Air Testing

The Habitability Decision concluded, as a result of air quality testing during the habitability study, is that no dwellings are currently being adversely affected by ambient or indoor air contamination.



### A.3 Soil Testing

Statistically, the soil from EDA 1 has significantly higher levels of all LCIC's than soil from all other parts of the EDA and from the comparison areas. Soil from EDA 2 and 3 have higher LCIC's than soil from EDA 4 - 7 and from the Niagara Falls comparison areas. In turn, the Niagara Falls Comparison Areas were significantly more contaminated with LCIC's than soil from the Erie County Comparison area (Cheektowaga).

Dioxin was discovered in a "small" area of soil in EDA 3 at 20-30 parts per billion. This small area has been cleaned and the affected soil stored with other wastes from the Love Canal cleanup efforts.

### A.4 Effectiveness of the Barrier Drain

The NYSDEC has documented the adequateness and effectiveness of the remedial and containment technology utilized at the Love Canal EDA in a report entitled, "Supplement to the Love Canal Emergency Declaration Area Proposed Habitability Criteria, Appendix 6" dated September 1988.

The results of the NYSDEC's September 1988 report point to the conclusion that "the barrier drain is functioning as designed, and is 1) capturing any contamination which is migrating laterally outward from the Love Canal, 2) reducing hydraulic pressures (the driving force for migration) within the Canal, and 3) recapturing nearby aqueous phase contamination on the outside of the drain which escaped prior to its construction. In addition, the clay layer provides a barrier to vertical migration."

### A.5 Habitability Conclusions

As a consequence of the Habitability Study, it is the decision of the NYSDOH that EDA 4-7 meet all of the habitability criteria and may be used for residential or other purposes. EDA Sub-Areas 1-3 do not meet the criteria for habitability. Thus, the areas are not suitable for normal, residential use without remediation, or cleaning up, of contaminated soil. EDA Sub-Areas 2 and 3 do exceed the comparison criteria for habitability, although to a lesser extent than EDA 1. Remediation may make these areas as habitable as other neighborhoods in Niagara Falls, but they cannot at the present time be considered appropriate for unrestricted residential use.

Furthermore, the Commissioner of Health has stated that these three areas (EDA 1-3) may be used for other purposes (for instance, commercial or industrial) without remediation.

#### A.6 Statistical Validity of the Habitability Decision

In statistical analysis, the power of the statistical test refers to the reliability of rejecting a stated hypothesis. The hypothesis is simply a statement which can be tested to see if it is true or not. In the Love Canal Habitability Study, the power of the statistical test used is the probability or chance of rejecting the hypothesis that a particular EDA sampling area was the same as a comparison area, when in fact it was not.

When the habitability study was designed by the TRC, the statistical power was defined as a 90 percent probability of detecting an "order of magnitude" difference in concentrations of soil LCIC's, and the sample sizes needed to provide that power were calculated independently for each LCIC (univariate analysis) and for the combined LCIC's (multivariate analysis). In EDA 4, LCIC findings were inconsistent. The BHC's suggested that EDA 4 was more contaminated than one Niagara Falls Comparison Area, but the cholorbenzenes suggested that the comparison area was more contaminated than EDA 4. Thus, the decision to consider EDA 4 no different from the comparison area was based on having several LCIC's simultaneously lower in an EDA sampling area than in the comparison areas. These findings potentially reduced the statistical power available, because the power of having several LCIC's simultaneously greater in an EDA area is the product of the individual probabilities. However, for a variety of reasons (primarily improvements in the techniques for chemical analysis after the pilot study was completed), the statistical power actually available in the study was greater than planned. The study actually had a probability of nearly 1.0 (100 percent) to detect an "order of magnitude" difference. This exceeds the goal set for the habitability study of a 90 percent probability to detect such a difference.

#### A.7 Subsequent Re-evaluations of the Habitability Decision

During the period May 10-11, 1989, a panel of scientific advisors appointed by the TRC, discussed several questions regarding the process for determining habitability of the EDA which were raised by the discovery of chemically contaminated soil at the Niagara Community Church which is located in one of the comparison areas used in Habitability Study.

At this same meeting, one of the experts, Michael Stoline, asked for a reassessment and interpretation of the decision regarding the habitability of a portion of the Emergency Declaration Area (EDA 4 - the sampling area north of Colvin Boulevard, east of 98th Street and south of Moschel Court). He was concerned about BHC contamination in that area, particularly in what he characterized as "hot spots" or locations with much higher levels of BHC's than found elsewhere in the study.

At this same meeting, the panel of scientific advisors also considered how government agencies should react to future discovery of contamination in the EDA. They concluded that "government agencies should treat reports of potential contamination or discoveries of contamination at the Emergency Declaration Area as they would anywhere else in the state." Thus, even if a localized area of contamination were to be discovered in the EDA, the habitability of a neighborhood would not be affected unless the contamination was a threat to the health of neighborhood residents. Where (if) localized contamination is found (such as in the parking lot of the Niagara Community Church), its extent must be identified and efforts to remediate the contamination pursued.

The above information was formally included in the Clarification to the Habitability Decision for the Love Canal Emergency Declaration Area - EDA 4 date June 16, 1989.

A.8 Habitability Decision Conformance to Statutory Requirements of Superfund Amendments Reauthorization Act (SARA)

The Director of the United States Environmental Protection Agency (USEPA), William K. Reilly, in his response to Lois Gibbs of the Citizens Clearinghouse for Hazardous Wastes dated May 14, 1990, has upheld resettlement of the Love Canal and has stated that the Habitability Study does indeed assess risks associated with inhabiting the Emergency Declaration Area. Director Reilly's response to Lois Gibbs has been provided in FGEIS Appendix G.

EPA Director William K. Reilly has stated that the Habitability Decision meets all the requirements of SARA. Director Reilly states that, "I have concluded that the Love Canal Habitability Study was conducted in full conformance with the law, that it was rigorously designed and carried out to ensure that it was scientifically sound and unbiased and that it was subjected to the full scrutiny and comment by nationally recognized independent experts and the public." He further states that the EPA "has done all the law demands."

Furthermore, the letter transmitting the Habitability Study from the Environmental Protection Agency/Technical Review Committee to Dr. David Axelrod, the Commissioner of Health of the NYSDOH dated July 28, 1988 states that "... The formal acceptance of this report by the TRC and your subsequent determinations, will fulfill the requirements of Section 312 (e) of the Superfund Amendments and Reauthorizaion Act (SARA). Section 312 (e) requires that study data be made public, and that the habitability and land-use determinations be made so that the land within the EDA can be put to its best use." This letter has been provided in FGEIS Appendix X.

## A.9 Land Use Advisory Committee Deliberations (LUAC)

In order to determine the highest and best use of the land surrounding the Containment Area, NYSDOH Commissioner Axelrod appointed a Land Use Advisory Committee in the fall of 1988. This was a community based group of individuals representing the needs and desires of the Love Canal residents and of Niagara Falls. On July 11, 1989, the final report of the LUAC was transmitted to Dr. David Axelrod, the Commissioner of Health of the NYSDOH, which contained recommendations for use of the land surrounding the fenced containment area to be integrated into the master planning process.

After review, most of the recommendations of the Land Use Advisory Committee were accepted by LCARA. The recommendations are provided herein. There, an explanation of how each has been accepted by LCARA, is provided. If a particular recommendation was not accepted by LCARA an explanation as to why it was not is also provided:

### A.9.1. General LUAC Recommendations For The Entire EDA

- a. LUAC Recommendation: The Love Canal site should be isolated from the residential communities surrounding the site in a manner which is aesthetically pleasing and which enhances the whole EDA area.

LCARA Action: Screening of the Love Canal Containment Area is proposed in the Love Canal Area Master Plan with specific buffering material yet to be identified. Screening activities will effectively buffer the containment area from the rest of the EDA and produce a view of the fenced area which is more aesthetically pleasing.

- b. LUCA Recommendation: Government should continue ongoing monitoring of the area and research on clean-up and isolation of Love Canal hazardous wastes. This is to assure protection for existing and new residents and to identify new ways to deal with such wastes. Easements should be maintained along the fence surrounding the Love Canal site to ensure government access to the site in order to carry out continuous monitoring.

LCARA Action: The Love Canal Area Master Plan recognizes that on-going testing and remedial activities will occur at the Love Canal. The NYSDEC will have access to the fenced area and will obtain easements from LCARA where appropriate in order to undertake maintenance and monitoring activities necessary to ensure the Love Canal hazardous wastes remain contained.

- c. LUAC Recommendation: A Public Information and Environmental Education Center should be developed and maintained in the Love Canal EDA to serve as a resource for information on the history of the Love Canal. Several locations for this Center were discussed, including the 93rd Street School.

LCARA Action: A public information component will be present at the EDA during and after resettlement of the EDA. The 93rd Street School could possibly serve as an environmental education component as well as an instructional facility, as the City of Niagara Falls School Board has proposed. Also, all prospective purchasers of Love Canal EDA housing units will be informed of the past history of the area.

#### A.9.2 LUAC Recommendations For Habitable Areas (EDA AREAS 4-7)

The majority of the Committee believes that the EDA areas declared habitable by the Commissioner of Health should be revitalized for residential use. There are a number of conditions attached to that basic recommendation:

- a. LUAC Recommendation: Prior to resettlement, government agencies should invest in efforts to bring the area back to its earlier state as a viable neighborhood. This means upgrading houses, roads, street lights, landscaping, etc.

LCARA Action: In a Board of Directors Resolution dated December 6, 1989, LCARA is committed to rehabilitating housing units before they are sold. Each house will be reappraised before sale and sold at market value. The City of Niagara Falls has identified improvements to the road network within the Love Canal. These improvements were identified in FGEIS Appendix F.

- b. LUAC Recommendation: Resettlement should be phased in -- not all homes should be sold at once. This is for two reasons: to avoid flooding the real estate market and to assure that homes being impacted by remediation of creeks are not sold while that work is continuing. In other words, people should not be moved into the areas next to creek excavation work or transport routes. The Niagara Falls Area Board of Realtors should be consulted on marketability issues.

LCARA Action: In a Board of Director's Resolution dated December 6, 1989, LCARA resolved to "invite the participation of the local realty community to assist in sales of LCARA owned homes." Furthermore, based upon the Girasole Report and LCARA investigations, an absorption

period of 3 to 10 years or more has been identified for sale of homes in Sub-Areas 4 and 5 and along 93rd Street. This will prevent any undue disruption of the Niagara Falls Real Estate Market in terms of average sales prices and time on the market.

- c. LUAC Recommendation: The Committee prefers that homes should be sold for owner occupation only. Current renters should be allowed to stay.

LCARA Action: In a Board of Director's Resolution dated December 6, 1989, LCARA resolved that sale of homes will be "only to owner occupants." LCARA will also examine the possibility of selling units to private developers to rehabilitate, who, in turn, will be required to sell the rehabilitated unit to an owner occupant. Current renters will be able to remain in the EDA. LCARA has developed an incentive program for relocation of renters from the non-habitable areas to the habitable areas.

- d. LUAC Recommendation: All potential residents of the area must be notified of the history of the neighborhood's proximity to the Love Canal site, and of the Love Canal Habitability Study and Decision. This notice should accompany all future transactions and afford potential residents the opportunity for an informed choice.

LCARA Action: The LCARA has agreed with the New York State Department of Law's contention that some sort of disclosure requirement be developed and provided to all prospective homebuyers in the Love Canal EDA.

- e. LUAC Recommendation: Senior citizen housing should be a priority for the areas west of the Canal itself, where the former Griffin Manor housing development once stood. The Committee favors senior citizen housing because of a perceived need in the Niagara Falls Area and the success of the existing Garden Complex.

LCARA Action: The LCARA has supported retention and rehabilitation of the existing senior housing complex. However, the complex is presently owned by the Niagara Falls Housing Authority. LCARA is pursuing purchase of the property from the NFHA. Until LCARA is able to purchase the Housing Authority property, rehabilitation of the senior housing complex is not an issue LCARA is able to actively pursue.

- f. LUAC Recommendation: Where there is a need, remaining homeowners should be assisted with grants or low interest loans, etc. to upgrade the condition of their homes. This would allow improvements to be made throughout the

revitalized EDA, regardless of whether the property is owned by LCARA or a private individual, and will, in turn, enhance the value of the whole neighborhood.

LCARA Action: LCARA has stated that it is attempting to secure funding to allow current residents to fix up their homes. LCARA has stated that "Regardless of the type of funding and the speed with which LCARA is able to come up with some funding, current residents have the same rights as anyone else in Niagara Falls to fix up their properties and make whatever improvements they like."

#### A.9.3 Recommendations For Non-Habitable Areas (EDA AREAS 1-3)

The majority of the Committee recommended the following for the EDA areas declared to be non habitable by the Commissioner of Health:

- a. LUAC Recommendation: Recognizing economic limitations, nonetheless, every effort should be made to remediate areas 2 and 3 to a level of habitability comparable to areas 4 - 7. This will enable areas 2 and 3 to be developed for residential use.

NYSDEC Action: The NYSDEC has stated that it is committed to remediating Sub-Areas 2 and 3. Further soil sampling has been conducted. These soil samples have been submitted to NYSDOH for its analysis. When the results of the NYSDOH's analysis is completed, the NYSDEC will then develop a remedial program for Sub-Areas 2 and 3.

LCARA Action: LCARA has stated that due to various conditions and circumstances, Sub-Areas 2 and 3 would be more appropriately developed as a light industrial office park. The rationale for this decision is described below.

A number of factors have influenced the LCARA Board's decision to use Sub-Areas 2 and 3 for light industrial office park uses rather than residential. These factors are included in FGEIS Appendix N and further described herein. The factors are grouped according to similiarity of topic. This is the reason the factors are not sequentially numbered:

Factor 1: The Land Use Advisory Committee's recommendation was for residential use "recognizing economic limitations."

Factor 6: The cost of remediation will exceed the present value of the homes in 2 and 3.

The NYSDEC has stated that it is committed to remediation of Sub-Areas 2 and 3 for residential purposes. The measures to achieve remediation and the extent of remediation are yet to be defined, contingent upon NYSDOH's assessment of the soil samples provided by NYSDEC. Economic limitations to remediation cannot, therefore be assessed until the parameters of remediation have been identified.

Furthermore, based upon the LCARA valuation and condition rating charts provided in FGEIS Appendix N, the present value of the homes in Sub-Areas 2 and 3 (154 units) is approximately \$1.5 million. The cost of remediating Sub-Areas 2 and 3 could possibly exceed this value depending upon the type and level of remediation proposed, thereby, rendering residential rehabilitation not cost-effective, an economic limitation.

Factor 2: The homes in Areas 2 and 3 are, as a group, older and smaller than homes in the habitable areas.

Factor 4: The majority of homes in the EDA are starter homes. This market will be saturated for a number of years as LCARA places homes in the habitable area onto the real estate market.

The Girasole Report examined the homes in Sub-Areas 4 and 5 and along 93rd Street. The majority of these homes have been classified as ranch style (206) and are considered starter homes. An absorption period of 3 to 10 years or more has been identified as an appropriate length of time for selling these homes without adversely impacting the surrounding real estate market.

Homes in Sub-Areas 2 and 3 will remain vacant for the length of the absorption period for homes in Sub-Areas 4 and 5, thereby deteriorating to an even worse condition than at present.

Factor 3: Homes in Areas 2 and 3 have not been maintained in recent years and are significantly more deteriorated than homes in Areas 4 and 5.



Factor 5: Marketing of homes in Sub-Areas 2 and 3 must await remediation, and will continue to deteriorate while this process continues.

The rehabilitation specialist at LCARA developed a series of condition rating criteria which were used to judge the condition of the homes in Sub-Areas 2 and 3 and 4 and 5. These criteria have been provided in FGEIS Appendix N.

Based upon these criteria, the homes in Sub-Areas 2 and 3 have an average condition rating of 3 (poor condition), while the homes in Sub-Areas 4 and 5 have an average rating of 8 (very good condition).

Since sale of homes in Sub-Areas 2 and 3 must await completion of remedial activities by NYSDEC, these units will deteriorate even further and be in much worse condition than they are presently.

Factor 7: It will be difficult to overcome the stigma of Love Canal for homes in the habitable areas. To market the homes in a non-habitable area will be nearly impossible, even if remediation will be undertaken.

LCARA feels that efforts to revitalize the Love Canal non-habitable areas for residential use, even after completion of remedial activities, will be much more difficult due to the psychological effect of the area once being labeled as non-habitable.

Factor 8: There is a strong demand for quality "industrial park" land in the Niagara Falls area due to the Free Trade Agreement and other factors.

The amount of land currently available for commercial and industrial development in the Niagara Falls Region is quickly being absorbed, especially in the area surrounding the Love Canal EDA (the Town of Wheatfield Williams Road Corridor). The Summit Development Corporation is planning an expansion of the Summit Park Mall. In addition, the sale of approximately 171 acres of land to Canadian developers in the Summit Industrial Park greatly reduced the amount of vacant commercially/industrially zoned land available for development. Purchase of such a significant amount of land is indicative of current trends in the Niagara Falls Region.

Furthermore, building permit issuances for commercial and industrial activities in relation to residential permit issuances substantiates that a demand for industrial land is prevalent in both the City of Niagara Falls and the Town of Wheatfield.

- b. LUAC Recommendation: If cost prohibits the total remediation required for residential resettlement, areas 2 and 3 should be developed for light industrial use. In light of the proximity to residential areas, certain appropriate remediation must be carried out under this option. This will provide an opportunity for the City of Niagara Falls and the Town of Wheatfield to benefit from the Free Trade Agreement. Any industrial development of this area should be planned and consider the needs of existing residents.

LCARA Action: For reasons stated in #a of this subsection, Sub-Areas 2 and 3 have been identified for light industrial office park development. LCARA has developed a phasing plan for Sub-Areas 2 and 3 which will ensure adequate buffer between remaining residents and new light industrial uses. The phasing plan envisions light industrial development progressing from the north to the southern boundary of the EDA.

The Board of Directors of LCARA is also on record as saying that the Agency is not going to force anyone out of their homes. The Agency is committed to do all it can to make living in the EDA as comfortable as possible for the existing residents for the duration of time they choose to remain in the EDA.

- c. LUAC Recommendation: Under either of these conditions, current residents: should have the right to remain in areas 2 and 3 if they choose; should be eligible for low income loans or grants to rehabilitate their properties; should be given an opportunity to bid on homes in areas 4-7, if they wish to relocate; and should receive a selling price for their homes comparable to the value of similar homes in any other area of the City of Niagara Falls and Town of Wheatfield.

LCARA Action: Refer to A.9.3 (a) for information regarding LCARA's commitment to existing residents. Refer to a.9.2 (f) for more information regarding LCARA's attempts to secure funding for improvements to existing residents' homes. Refer to B.2 Impacts to Remaining Residents in Sub-Areas 2 and 3 for more information regarding the LCARA incentives package to be offered to existing homeowners and renters in the EDA. The last

point raised by the LUAC cannot be satisfied by LCARA since the Agency is bound to purchase homes from existing homeowners at 1980 values when using EPA funds. However, a private developer could offer existing residents market value for their homes and, thereby, satisfy the LUAC recommendation.

- d. LUAC Recommendation: Basic services such as water, sanitary sewers, street lights, roads, etc. should be maintained and upgraded to current standards in areas 2 and 3 where people continue to reside.

Municipal Action: The City of Niagara Falls and Town of Wheatfield presently provide the above identified services to the EDA.

- e. LUAC Recommendation: Area 1 should not be remediated or developed for residential use. Other uses should be considered. Residents and businesses in Area 1 should have the same rights as current residents in Areas 2 and 3, as listed in #c above.

LCARA Action: The Love Canal Area Master Plan does not envision residential use in Sub-Area 1. The area has been identified as a gateway and will be landscaped to create an aesthetically pleasing entrance to the City of Niagara Falls. A remedial plan has been developed by Occidental Chemical Corporation which encompasses Sub-Area 1 and is under review by NYSDEC.

#### A.10 Master Planning and Environmental Review Activities

The Saratoga Associates of Saratoga Springs, Buffalo, New York City and Springfield, Massachusetts was retained by the LCARA to prepare a Master Plan reflecting the findings of the NYSDOH in its Decision on Habitability and the area's environmental, social and physical settings. As a result of Master Planning Activities, a preferred alternative was developed to guide future land use at the Love Canal Emergency Declaration Area. The Draft Master Plan was completed in the summer of 1989. A final Love Canal Area Master Plan, revised as per comments and revisions received during the SEQR review process, was adopted by the LCARA Board of Directors at a regular meeting dated June 13, 1990.

A Draft Generic Environmental Impact Statement (DGEIS) was developed to assess the physical, environmental and social impacts of implementation of the Preferred Alternative as compared to other alternatives. The DGEIS was submitted for formal review on December 6, 1989 with the filing of the Notice of Completion and Notice of Public Hearing. Two public hearings were held at the Frontier Volunteer Fire Hall on January 4, 1990. Comments from

involved agencies, interested agencies and the public were accepted by the Lead Agency (LCARA) until the close of the comment period on January 22, 1990.

A Final GEIS was prepared for LCARA by The Saratoga Associates. It was accepted as complete on May 30, 1990 and duly filed and circulated.

## **B. Project Description**

The proposed action is the formal adoption of the Love Canal Area Master Plan by the LCARA. The Master Plan will serve to guide the redevelopment of the Love Canal EDA based upon the NYSDOH's Decision on Habitability issued on September 27, 1988.

The Love Canal Area Master Plan has identified resettlement activity in Sub-Areas 4 and 5 and along the western side of 93rd Street with single family residential housing. This will be achieved by rehabilitating existing housing units in these areas. Sub-Areas 6 and 7 have been identified for the development of medium density, multi-family residential units interspersed with areas of parkland/greenspace. Sub-Areas 2 and 3 have been identified for use as a light industrial/office park to complement existing light industrial/office park uses presently existing along the Williams Road Corridor in the Town of Wheatfield. Sub-Area 1 will be left undeveloped with the exception of landscaping and placement of other amenities to create a gateway/greenbelt buffer. The Love Canal Containment Area will be left undisturbed and remain secured from public access. The 93rd Street School site will be utilized by the School District as an educational facility. However, the Love Canal Area Master Plan has identified a portion of the school site not being utilized for instructional programming to be used as parkland/greenspace. A transfer of ownership of this portion of the property to the City of Niagara Falls could occur but is as yet unresolved and/or undecided. The final determination of ownership will be of no consequence to other proposals set forth in the Love Canal Area Master Plan.

### **B.1 Phasing Plan/Implementation Strategy**

An implementation strategy is required in order to effectively develop the Love Canal EDA. A strategy has been identified encompassing both short (1-2 years) and long-term (2+ years) activities. Various administrative, physical and environmental concerns must be addressed under each time frame.

#### **B.1.1 Short-term Implementation Measures**

##### **B.1.1.1 Administrative Action**

The following identifies administrative actions to be undertaken in the short-term:

- a. Complete environmental review of Preferred Master Plan Alternative.
- b. LCARA adopt Master Plan.

- c. Secure lifting of the New York State Supreme Court Injunction which prevents sale of property by LCARA.
- d. Establish sales/marketing/financing strategy for early action projects. Establish phasing plan for the sale of housing units in EDA Zones 4 and 5 and along 93rd Street.
- e. Coordinate NYSDEC sponsored Public Information Center role. Prepare disclosure statement to inform prospective property purchasers of the history and environmental setting of the Love Canal.
- f. Establish and implement mechanism and purchase price offer for non-LCARA properties within EDA Sub-Areas 2 and 3. Offer inducement package to EDA Zones 2 and 3 residents.
- g. Pursue acquisition of EDA Sub-Areas 6 and 7 (Niagara Falls Housing Authority).
- h. Conduct historic review of structures 50 years and older to determine any possible historic significance.
- i. Where applicable, secure legal mechanisms, easements, property encumbrances with NYSDEC for maintenance, removal and/or monitoring of the 100 former EPA monitoring wells.

#### B.1.1.2 Physical Development

The following identifies physical actions to be undertaken in the short-term:

- a. Confirm the scope of residential unit rehabilitation and complete improvements on a phased basis. "Mothball" units scheduled for later phase sale.
- b. Initiate land and building sales of Black Creek Village and 93rd Street single family residential units on a phased basis.
- c. Prepare, design and provide landscape planting at the perimeter of the Love Canal Containment Area and public places (LCARA offices, site entrances, parks).
- d. Demolish LCARA owned buildings in EDA Sub-Areas 2 and 3 and convert to greenfield site. Provide maintenance to greenfield sites.
- e. Prepare a development plan proposal for EDA Sub-Areas 2, 3, 6 and 7 to solicit developer interest. Evaluate absorption rates, phasing schedule and cost of development.

- f. Prepare, design and provide landscape planting in EDA Sub-Area 1 to create green space.

#### B.1.1.3 Environmental

The following identifies environmental actions to be undertaken in the short-term:

- a. Resolve with NYSDEC the extent of remediation for EDA Sub-Areas 2 and 3. Coordinate the timing of remediation efforts.
- b. Coordinate with NYSDEC the remediation schedule of the 93rd Street School and 97th Street Church.
- c. Resolve with NYSDEC the remediation of BHC contamination on nine impacted properties, if necessary, in Sub-Area 4. Coordinate timing of property sale.
- d. Coordinate the remediation of Sub-Area 1 with NYSDEC.
- e. Conduct historic review of structures 50 years and older scheduled for demolition to determine historic significance.

#### B.1.2 Long-term Implementation Measures

Certain project procedures involve a series of applications and/or phases. Information on future phases is unknown, they are functionally independent and as noted herein, the applicant is committed to appropriate environmental assessments.

##### B.1.2.1 Administrative Action

The following identifies administrative actions to be undertaken in the long-term:

- a. Complete environmental review (SEQRA) of site specific development proposals.
- b. Establish mechanisms to accomplish development proposals in EDA Sub-Areas 2 and 3. Consider financial rates of return, risk/reward relationships and market support.
- c. Secure municipal rezoning and site plan approvals as applicable for development proposals in EDA Zones 2, 3, 6 and 7.

#### B.1.2.2 Physical Development

The following identifies physical development activities to be undertaken in the long-term:

- a. Complete land and building sales of Black Creek Village single family residential units.
- b. Pursue development of parks and planned residential development (Sub-Areas 6 and 7); including structure, infrastructure (roads, utilities, etc.) and placement of amenities.
- c. Pursue reuse of the 93rd Street School Site.
- d. Pursue development of commercial, light industrial and office uses in Sub-Areas 2 and 3; including structure, infrastructure (roads, utilities, etc.) and placement of amenities.

#### B.1.2.3 Environmental

The following identifies environmental activities to be undertaken in the long-term:

- a. Continue jurisdictional agency monitoring of Love Canal Containment Area environmental quality as required by NYSDOH Habitability Decision.
- b. Conduct site specific review for significant animal resources in EDA Zones 2 and 3 pursuant to SEQR.

#### B.2 Impacts to Remaining Residents in Sub-Areas 2 and 3

The non-habitable area of the EDA, Sub-Areas 1, 2 and 3, still retain about 30 families. Ten of these are tenants of the Love Canal Area Revitalization Agency. The remainder are homeowners.

The preferred land use plan for the EDA proposes that Sub-Area 1 be made a park/greenspace, Sub-Areas 2 and 3 be changed from residential to industrial/commercial uses. To avoid conflicts between these differing land uses, LCARA prefers that residential uses be phased out over time.

Remaining residents fall into several categories. To answer the concerns of this diverse group of people, LCARA has developed a multi-faceted series of incentives to encourage people to consider alternatives to their present situation.



### B.2.1 Renters

For those desiring to move out of the EDA, LCARA will offer the following relocation assistance:

- a) Assistance in finding comparable housing opportunities elsewhere in Western New York.
- b) Full moving costs.
- c) New range and refrigerator.
- d) Payment of deposits if required for apartments, utilities and telephone.

For those who wish to move to the EDA habitable areas, LCARA will propose the following:

- a) The opportunity to apply a portion of past rents paid toward the purchase of a home.
- b) Moving costs.
- c) Payment of deposits for utilities and telephone if required.

### B.2.2 Homeowners

LCARA will propose the following:

- a) LCARA will swap homes in the non-habitable area for equivalent homes in the habitable area.
- b) LCARA will pay "loss of favorable mortgage" payments if applicable or provide a mortgage at equal rates.
- c) LCARA will pay all moving expenses.
- d) LCARA will pay deposits for utilities and telephone if required.

### B.2.3 Residents remaining in Sub-Areas 2 and 3

For those persons who choose to remain in the non-habitable areas, LCARA will maintain neighborhood conditions at the highest levels possible given funding restraints. This will include security patrols, lawn mowing, trash and debris pickup. It will greenfield Sub-Areas 2 and 3 until such time as a phased development can be implemented which respects the rights of area residents.

### B.3 Phasing of Industrial/Office Park Uses in Sub-Areas 2 and 3

LCARA has developed a land use plan which proposes light industrial/office park uses for Sub-Areas 2 and 3. Development of this land use type will require phasing since there are residents remaining in Sub-Areas 2 and 3. Analysis of existing patterns of settlement in this area show that the greatest number of remaining residents are located in the southern part of this area with smaller numbers in the north. It is therefore, logical to assume that a phased development plan would start in the north near Colvin Boulevard and proceed in a southerly direction. A detailed phasing plan has been developed for Sub-Areas 2 and 3 as well as design schematics to conceptually depict how light industrial/office park uses may co-exist with existing residences. These are provided in the FGEIS Figures 16A and 16B. Phasing of light industrial office park uses will begin in the northern end of the site along Colvin Boulevard and progress south to Frontier Avenue. Three phases of development are anticipated. The objective is to fully develop each phase before proceeding to the next phase. However, if LCARA or another project sponsor (independent developer) is unable to purchase the necessary property from remaining residents for the intended development, the next subsequent phase will be pursued. Office/industrial development will be located in a coordinated manner to utilize open vacant space, thereby preserving adequate spatial buffer. Large masses of existing trees are to remain wherever possible to screen views of new industrial office uses from existing residents. This objective will also be achieved through use of earthberms and landscaping.

LCARA has previously expressed its intent to provide inducements to remaining residents which would encourage them to move to the habitable area as identified in Findings Statement Section B.1. Offering inducements may reduce the number of persons who remain in areas 2 and 3. Other factors including but not limited to the DEC proposed remediation of areas 2 and 3, job changes, age and health may further reduce the number of persons living in the area. These factors cannot easily be quantified. Any phasing plan must therefore be tentative and suggestive of a direction rather than propose an explicit proposal. LCARA will continue to be sensitive to the needs and welfare of the remaining residents in areas 2 and 3 as well as elsewhere in the EDA.

### B.4 Conditions/Thresholds to Development at the Love Canal EDA

6 NYCRR Section 617.15 (b) states that "Generic EIS's and their findings should set forth specific conditions or criteria under which future actions will be undertaken or approved,..." The FGEIS was prepared pursuant to these regulations.

A Generic EIS was selected as the appropriate type of impact statement because its broad scope aids in the analysis of the very

distinct alternative development plans for the Love Canal EDA. According to SEQOR, a Generic EIS may be used "... to assess the environmental effects of ... an entire program or plan having wide application or restricting the range of future alternative policies or projects."

Under SEQOR, Generic EIS's are broader and more general than site or project specific EIS's and should discuss the logic and rationale for the choices advanced. "They may identify the important elements of the natural resource base as well as the existing and projected man-made features, patterns and character... They may present and analyze a few hypothetical scenarios that could and are likely to occur" (6 NYCRR 617.15 (d)).

The FGEIS sets forth the criteria and thresholds under which future actions will be undertaken or approved. The FGEIS shall be referenced as the control document should any apparent conflict occur between the Findings Statement summary and the FGEIS. The areas in which site-specific data are to be developed and incorporated into plans are established herein. The implementation of the Preferred Alternative must be undertaken within the thresholds and criteria defined as follows:

#### B.5 Thresholds To Development

The Love Canal Area Master Plan identifies various design parameters for the Preferred Alternative which will act as thresholds to development activity at the Love Canal EDA. An environmental assessment will be conducted to determine whether the proposal is within the parameters identified in the FGEIS. If any future development proposal set forth for the Love Canal EDA is consistent with these thresholds, a site-specific EIS will not be required. If, however, development activity exceeds these thresholds, or imposes different environmental impacts, a site-specific EIS will be required for those topics and other cumulative or associated impacts.

A range of thresholds have been developed and include but may not be limited to water and sewer capacity, traffic generation, residential population creation, employee creation, tax revenues generated and number of school children created. The thresholds identified herein for these factors represent the maximum potential development to occur as a result of the implementation of the Love Canal Area Master Plan. Development cannot exceed these thresholds without further site-specific SEQOR compliance as noted above. Component uses to be developed at Love Canal and the thresholds identified with each use are further described in the following paragraphs.

The Preferred Alternative encompasses a variety of uses such as parkland, single family residential, medium density residential,

office development, commercial development, light industrial development and containment area.

#### B.5.1 Park Use

The Preferred Alternative will create a need for 25-to-500 person average daily park usage in approximately 30 acres of land at the EDA. Approximately zero- to-10 parking spaces is anticipated at the 93rd Street School site and approximately 100 additional parking spaces in the area defined as Sub-Areas 6 and 7 in the Habitability Decision. The Preferred Alternative will generate approximately 1,080 weekday trips, 630 trips in the AM Peak Hour and 210 during the PM Peak Hour, 1,875 vehicle trips on Saturday, 1,475 trips on Sunday, 183 trips during the Saturday Peak hour and 215 during the Sunday Peak Hour. Water and Sewer usage will be approximately 25 - 2,500 gallons per day and 106 - 2,125 gallons per day, respectively. No tax revenues will be generated nor will there be any direct creation of school children due to park development at the EDA.

#### B.5.2 Single-Family Residential

Single family residential development at the Love Canal EDA will create approximately 875 new residents within approximately 75 acres of land. One parking space per dwelling unit is required as per the City of Niagara Falls Zoning Ordinance. Traffic will be generated. It is anticipated that the maximum traffic generation will be approximately 2,616, 191, 263, 2,639, 2,271, 248 and 245 vehicular trips during the weekday, AM Peak Hour, PM Peak Hour, Saturday, Sunday, Saturday Peak Hour and Sunday Peak Hour, respectively. Water and sewer usage will be approximately 95,000 gallons per day and 81,000 gallons per day, respectively. Tax revenues anticipated to accrue to the City of Niagara Falls could total approximately \$460,000. Lastly, a total of approximately 219 new students could be generated from the single family residential component at the Love Canal EDA.

#### B.5.3 Medium Density Residential

A total of approximately 1,782 persons is anticipated to be generated at the Love Canal EDA due to medium density residential development at the Love Canal EDA in Sub-areas 6 and 7 within approximately 75 acres of land. The number of parking spaces required is 1 per dwelling unit as per the City of Niagara Falls Zoning Ordinance. No medium density development is envisioned in the portion of the EDA located in the Town of Wheatfield. Approximately 6,137, 481, 597, 5,300, 4,195, 458 and 363 vehicular trips will be generated during the weekday, AM Peak Hour, PM Peak Hour, Saturday, Sunday, Saturday Peak Hour

and Sunday Peak Hour, respectively. Water and Sewer usage is anticipated to be approximately 247,000 gallons per day and 210,000 gallons per day, respectively. Tax revenues anticipated to accrue to the City of Niagara Falls totals approximately \$773,000. None will accrue to the Town of Wheatfield since no medium density residential development is planned in the portion of the EDA located within the town. It is anticipated that approximately 218 new students will be added to the City of Niagara Falls City School District due to the medium density residential development component.

#### B.5.4 Office Development

Office development is planned for EDA Sub-Areas 2 and 3. Office development at the Love Canal will generate the need for approximately 1,000 new employees. Approximately 355,000 square feet of building space will be developed and will be accompanied by no more than 2,300 parking spaces. It is expected that approximately 7,610, 596, 741, 6,573, 5,202, 568 and 450 vehicular trips will be generated during the Weekday, AM Peak, PM Peak, Saturday, Sunday, Saturday Peak Hour and Sunday Peak Hour, respectively. Water and sewer usage is anticipated to be approximately 15,000 gallons per day and 13,000 gallons per day, respectively. Tax revenues will accrue to both the City of Niagara Falls and the Town of Wheatfield. Expected tax revenues could total approximately \$119,000 in land taxes and approximately \$211,000 in building tax for the Town of Wheatfield and approximately \$13,000 in land taxes and approximately \$239,000 in building tax for the City of Niagara Falls. No student population will be added as a direct result of office development at the Love Canal EDA.

#### B.5.5 Commercial Development

Commercial development is proposed for Sub-areas 2 and 3. Approximately 155 employees could be created. Building square footage could equal approximately the maximum potential of 250,000 square feet with an accompanying approximate 1,695 parking spaces. It is anticipated that approximately 603, 208, 90, 154, 100, 16 and 9 vehicular trips could be created during the weekday, AM Peak Hour, PM Peak Hour, Saturday, Sunday, Saturday Peak Hour and Sunday Peak Hour, respectively. Water and sewer usage is anticipated to be approximately 2,325 gallons per day and 1,976 gallons per day, respectively. Tax revenues are expected to be generated for both the City of Niagara Falls and the Town of Wheatfield. Land taxes could total approximately \$6,940 and \$11,817 for the Town of Wheatfield and City of Niagara Falls, respectively. Building taxes could total approximately \$100,000 and \$171,000 for the Town of Wheatfield and City of Niagara Falls, respectively. No new students will

be added to each respective municipality's school districts as a direct result of commercial development at the Love Canal EDA.

#### B.5.6 Light Industrial Development

Light industrial development is planned for Sub-areas 2 and 3. No more than 1,200 employees will be created. Approximately 760,000 square feet of building space is anticipated to be accompanied by approximately 2,541 parking spaces. It is anticipated that approximately 4,159, 526, 551, 1,418, 348, 167 and 35 vehicular trips could be generated during the Weekday, AM Peak Hour, PM Peak Hour, Saturday, Sunday, Saturday Peak Hour and Sunday Peak Hour, respectively. Water and sewer usage could total approximately 30,500 gallons per day and 25,000 gallons per day, respectively. Tax revenues will only accrue to the City of Niagara Falls since no light industrial development is planned in the portion of the EDA within the Town of Wheatfield. Land taxes to accrue to the City are expected to be approximately \$35,000 and building taxes could total approximately \$1,540,000. No school children will be added to either municipality's school district as a direct result of the light industrial component.

#### B.5.7 Containment Area

The containment area will be present in the Preferred Alternative. No development is planned for the 65 acre fenced containment area. The leachate treatment plant is within the containment area and is approximately 3,700 square feet with a parking space capacity of 10 spaces. Approximately 80 vehicular trips per day during the construction season will occur with approximately 10 to 20 per day during the winter. Water usage on a typical process day totals approximately 4,200 gallons per day and approximately 300 gallons per day during a normal working day. Sewer discharges on a typical process day totals approximately 45,000 gallons per day. NYSDEC's discharge permit allows up to 100,000 gpd. Tax revenue generation and number of school children do not apply.

#### B.5.8 All Uses

Overall, the Preferred Alternative will produce up to the maximum development threshold of approximately 2657 residents at the Love Canal, about equal with previous residential levels and could create approximately 2400 new jobs. Approximately 22,205, 2,632, 2,452, 17,959, 13,591, 1,640 and 1,317 vehicular trips will be created during the Weekday, AM Peak Hour, PM Peak Hour, Saturday, Sunday, Saturday Peak Hour and Sunday Peak Hour, respectively. Water and sewer usage could total approximately

396,525 gallons per day and 378,101 gallons per day, respectively. Tax revenues will accrue to both the Town of Wheatfield and the City of Niagara Falls. It is anticipated that approximately \$436,940 and \$3,242,817 will accrue to the Town of Wheatfield and City of Niagara Falls, respectively. The Preferred Alternative could add up to approximately 437 new students to the City of Niagara Falls City School District. No new student increase is anticipated for the Town of Wheatfield since no new residential development is planned for the portion of the EDA located in the Town of Wheatfield.

Activities proposed for the Love Canal EDA are in conformance with development trends in the area outside of the EDA. The proposed residential development in Sub-areas 4, 5, 6 and 7 is suitable with the surrounding residential uses to the north and west of the EDA. The commercial uses proposed in Sub-areas 2 and 3 are compatible with the commercial, industrial and office activities along Williams Road.

#### B.6 Conditions and Criteria to Guide Development at the EDA

In order for the implementation of The Love Canal Area Master Plan to occur, specific conditions or criteria under which future actions will be undertaken or approved at the Love Canal EDA have been identified. The conditions or criteria stated below assume that the only changes in scope of development will be in terms of technical and/or engineering activities. The conditions or criteria under which development activities will be undertaken or approved are provided below by Sub-area as defined by the NYSDOH in its Decision on Habitability:

##### B.6.1 General Criteria/Conditions

The following will be required of all properties located in the EDA:

- a. LCARA adoption of the Love Canal Area Master Plan based upon SEQR findings.
- b. Disaster Preparedness Commission review of Love Canal Area Master Plan based upon SEQR findings.
- c. Lifting of the New York State Supreme Court Injunction which prevents the sale of properties by LCARA.
- d. Where applicable; legal mechanisms, easements, property encumbrances are established by NYSDEC and agreed to by LCARA for undertaking removal, maintenance and monitoring of the 100 former EPA test wells located throughout the EDA.

- e. Where applicable, meet New York State Office of Parks and Recreation and Historic Preservation (NYSOPRHP) review criteria for structures scheduled for demolition which are 50 years and older.

#### B.6.2 Sub-Area Criteria/Conditions

##### B.6.2.1 Sub-Area 1

Sub-Area 1 has been identified as a gateway to the City of Niagara Falls. Landscaping and other amenities will be added to improve the area's general aesthetic appearance.

The above identified activities can proceed upon approval and completion of the remedial plan set forth by Occidental Chemical Corporation which includes Sub-Area 1. The remedial plan is presently being reviewed by the NYSDEC.

Subsequent to remediation, a landscaping and maintenance plan must be developed before any placement of aesthetic improvements occurs. Also, a budget and funding source must be identified.

##### B.6.2.2 Sub-Areas 2 and 3

Sub-Areas 2 and 3 have been identified for development of light industrial/office park uses. Before these activities proceed a number of events will need to occur first. These include the following:

- a. Coordinate and confirm the remediation of Sub-Areas 2 and 3 by the NYSDEC. The Decision on Habitability has stated that Sub-Areas 2 and 3 are not suitable for residential use without further remediation. The Commissioner of Health has stated that Sub-Areas 2 and 3 are suitable for commercial and light industrial activity without further remediation.

In news releases dated September 12, 1989 and April 19, 1990, the NYSDEC has agreed to remediate Sub-areas 2 and 3 in order to make this portion of the EDA suitable for residential use. The extent of remediation has not been identified as of this date. Soil sampling was completed by the NYSDEC in December of 1989. The samples are presently being tested by the NYSDOH. Upon completion of testing, a remediation plan will be developed by NYSDEC.

If Sub-Areas 2 and 3 are remediated, this could cause the NYSDOH to re-evaluate the Habitability Decision. An upgrade in the type of uses is possible. A formal review



and findings process by the Technical Review Committee (TRC) and Disaster Preparedness Commission (DPC) would be required to upgrade the habitability decision. NYSDEC has stated that there are no limitations to developing/resettling the EDA (Zones 4, 5, 6 and 7) resulting from the remedial activities in EDA Zones 2 and 3.

- b. A zoning change from residential to commercial is a Type I Action under SEQR. Both the Town of Wheatfield and City of Niagara Falls would have to undertake a rezoning action. A market study is recommended to confirm/identify a specific development program for the site.
- c. Identification of a preferred site plan proposal for the area and adoption by the LCARA Board of Directors.
- d. SEQR process approval for the preferred site plan proposal. A preliminary environmental assessment must be conducted to determine if the proposed action is in conformance with the parameters and thresholds identified in the FGEIS. Site specific review of significant animal species will be conducted.
- e. Other applicable local and state reviews and/or approvals will be sought, as required, inclusive of but not necessarily limited to the following permits and approvals:

Department of Transportation: Curb cuts.

City of Niagara Falls: Water and sewer extensions, site plan review.

New York State Department of Environmental Conservation: wetland permit (if necessary).

United States Army Corps of Engineers: Wetland permit (if necessary).

#### B.6.2.3 Sub-Areas 4 and 5

Sub-Areas 4 and 5 have been designated as single family residential land use areas. Approximately 194 housing units will be rehabilitated and sold to interested buyers by LCARA. Activities to be undertaken before units can be sold include the following:

- a. Lifting of the New York State Supreme Court Injunction which prevents LCARA from selling houses in the EDA. Upon its being lifted, LCARA can sell houses as per recommendations identified in The Love Canal Area Master Plan.

- b. Establish sales/marketing/financing strategy for sale of housing structures.
- c. All applicable local regulations will be adhered to in regard to rehabilitation of structures (e.g., rehabilitation specialist estimates undertaken, building permits as required within all statutory requirements and LCARA enabling legislation requirements).

Establish a program for rehabilitating housing units within the Love Canal EDA. This would include development and adoption of a phasing plan possibly categorized by the extent of rehabilitation required.

- d. Testing for BHC's in Sub-Area 4 must be completed by the NYSDEC and appropriate remediation undertaken, if necessary, by NYSDEC. 9 homes may be impacted if remedial activities are necessary. The impacted properties should be withheld from the active real estate market until any recommended remediation is complete.

No change in the Habitability Decision is expected unless there are significant findings contrary to current preliminary assessments. No significant findings are expected in Zone 4. NYSDEC has indicated that no other limitations have been identified in relation to selling adjoining housing units in Sub-Area 4.

- e. The 97th Street Church should not be sold, transferred or developed until any necessary remediation of the site occurs. A draft feasibility study is due by late spring or early summer of 1990 and will be used to determine if an RI/FS is required.

#### B.6.2.4 Sub-Areas 6 and 7

Sub-Areas 6 and 7 will be reserved for a Planned Unit Residential Development (PRD). Development objective focus will be placed upon the provision of middle income, medium density residential uses with single family use along the western side of 93rd Street. Adequate landscaping will be provided to buffer development of this area from the Love Canal Containment Area. The houses along 93rd Street will be improved to match the character of the houses along 91st and 92nd Streets. The following actions should be undertaken:

- a. Lifting of the New York State Supreme Court Injunction which enjoins LCARA from selling houses in the EDA. Upon its being lifted, LCARA can sell houses on the west side of 93rd Street as per recommendations identified in the Love Canal Area Master Plan.

- b. LCARA must pursue negotiations for the acquisition of Sub-Areas 6 and 7 from the Niagara Falls Housing Authority. In a LCARA Board Resolution, the Board instructed the Executive Director of the Agency to enter into negotiations with the NFHA for the acquisition of the property presently owned by the NFHA. If acquisition by LCARA does not occur, LCARA and the NFHA will ensure that development at the site is compatible with the accepted Love Canal Area Master Plan.
- c. LCARA will prepare a development proposal for EDA Sub-Areas 6 and 7 to solicit developer interest. A specific building program within the thresholds established in the FGEIS must be developed. This must include an evaluation of absorption rates, phasing schedule and cost of development.
- d. Any development proposal identified for Sub-areas 6 and 7 will be considered a site specific development proposal and will require all applicable SEQR reviews. An environmental assessment will be conducted in order to determine if a proposed site-specific development program is consistent with the thresholds and criteria set forth in the FGEIS. If the activity is consistent, no further SEQR action is required. If the proposal is in excess of the thresholds and criteria, a site specific EIS may be required for the explicit threshold exceeded and other cumulative or associated impacts.
- e. Other applicable local, state and other reviews and/or approvals will be sought, as required, inclusive of but not necessarily limited to the following permits and approvals:
  - NYS Department of Transportation: Curb cuts.
  - City of Niagara Falls: Water and sewer extensions and site plan review.
  - NYS Department of Environmental Conservation: Wetland permit (if necessary).
  - United States Corps of Engineers: Wetland permit (if necessary).

#### B.6.2.5 93rd Street School

In correspondence, provided in FGEIS Appendix S, from Mr. William Sdao, Superintendent of the Niagara Falls School District, to Mr. Michael O'Toole of the NYSDEC, the School District expresses their intent to reutilize the 93rd Street School as an educational facility. Reuse of the site as an educational facility will be contingent upon completion of planned remediation of the site by the NYSDEC as outlined in the Record of Decision (ROD).

The Love Canal Area Master Plan has identified the portion of the school site not to be utilized for instructional purposes as parkland/greenspace. A transfer of ownership of this portion of the property to the City of Niagara Falls could occur but is as yet unresolved and/or undecided. However, the final determination of ownership is of no consequence to other proposals set forth in the Love Canal Area Master Plan or in present and subsequent environmental reviews.

Before any of the above activities occur, the following conditions must be satisfied:

- a. Remediation of the 93rd Street School Site by the NYSDEC as per the identified ROD.
- b. Testing for and, if necessary, the removal of asbestos from the building.
- c. Upgrading of the building to meet current codes and safety regulations.

## C. Environmental, Community and Cultural Characteristics

### C.1 Geology

The Love Canal EDA is overlaid with a layer of fill material ranging in thickness from 1 to 3 feet comprised of local soil material to construction rubble and industrial wastes. Beneath the fill material are lacustrine deposits comprised of deposits from former glacial lakes which is underlain by a layer of glacial till. Beneath the glacial till is the Lockport dolomite and can be found approximately 20 to 45 feet below the land surface. Underlying the Lockport Dolomite is the Rochester Shale formation, a dark-gray calcereous shale.

The major limiting factors associated with the Love Canal site's geology is natural drainage and low permeability unless adequate sanitary sewers and surface drainage are provided. However, the United States Environmental Protection Agency in its 1982 report entitled, "Environmental Monitoring at Love Canal, Volume II", states that the Love Canal area is a highly developed area and is serviced by an extensive system of water, sewer and drainage outlet systems."

Implementation of the Love Canal Area Master Plan will have no significant impact upon the geology of the Love Canal EDA.

### C.2 Water Resources

All proposals set forth in the Preferred Alternative will utilize the City of Niagara Falls Municipal Water and Sewer systems. As a result of groundwater testing, the first sign of groundwater has been located 10 to 16 feet below finished grade in the horizontal bedding planes. No direct utilization of the groundwater beneath the Love Canal EDA will occur.

Surface water bodies located at or adjacent to the Love Canal EDA include the Black and Bergholtz Creeks and the NYSDEC regulated Class II wetland (Sub-Areas 2 and 3). The preferred use for the area adjacent to the creeks is for continued single-family residential housing.

Implementation of the Love Canal Area Master Plan will have no significant impact upon the water resources at the Love Canal EDA.

### C.3 Creek Remediation Activities

Creek remediation and clean-up activities by the NYSDEC were completed on September 22, 1989. Removal of the contaminated creek sediments from all three reaches was completed. At this time the remaining creek bed restoration work began which included final

grading or the creek bed and crib wall installation adjacent to the upstream side of the 91st Street bridge. By October 26, 1989, this work was completed and water was allowed to flow back into the creeks.

Occidental Chemical Corporation's (OCC) processing facility at the 93rd Street School site performed satisfactorily throughout the remedial effort. All creek sediments that went to OCC's main plant storage facility on Buffalo Avenue. As a result, by September 14, 1989 the Dewatering Contamination Facility (DCF) was filled with construction demolition debris (CDD) material only and final capping began on that date. The capping was substantially complete with topsoil in place and seeded by October 6, 1989.

Throughout November 1989 the contractor, Severson Environmental Services, Inc. (SES) concentrated on restoration of the creeks area and completing force main installation work for the Decontamination/Drum Storage Facility (DDSF). Both the General and Mechanical contracts with SES for the DDSF have been substantially completed. The electrical contract for the DDSF with Ferguson Electric Construction Company, Inc. is substantially complete. It is in the process of being closed out upon completion of two (2) change work orders.

Final restoration work, including reseeding, revegetation asphalt repair, final grading and final punch list items is to be completed in the spring of 1990. Outstanding activities include the punch list items to be completed by mid-June 1990 which will close out the creek remediation contract.

No adverse impacts to resettlement and/or rehabilitation activities is expected as a result of the above outstanding close-out activities and will not adversely impact implementation of the Love Canal Area Master Plan.

#### C.4 Wetland Protection

A state and federally protected wetland exists between 102nd Street and Williams Road south of Colvin Boulevard. This wetland has been classified as Class II by the NYSDEC. A state NYSDEC biologist walked this site in 1988 and again in 1989. The wetland boundaries as identified by the state biologist were mapped and plotted by Miller Engineers.

The Class II wetland will be preserved and protected under the Preferred Alternative. All applicable NYSDEC wetland regulations as promulgated in 6 NYCRR Parts 663 and 664 will be adhered to. The wetland area is also protected under Section 404 of the Clean Waters Act. The provisions of Section 404 will also be adhered to in the protection of the wetland area. The development plan identified for Sub-Areas 2 and 3, which contain the wetland, does

not have any adverse impact on the wetland. No roads, fill, drainage or construction will be undertaken within the wetland or the 100' buffer zone.

However, as a property owner, LCARA has a right to request a permit from the NYSDEC and the US Army Corps of Engineers to undertake development activity within the wetland and accompanying buffer. State and federal laws identify procedures under which development may occur in wetland areas without compromising the social and natural values which the wetland regulations are designed to protect. If LCARA determines to request such a permit, all applicable legal procedures must be followed.

### C.5 100 Year Floodplain

The original floodplain map for the Love Canal Area is dated March 16, 1983. It shows substantial parts of Black Creek Village in the 100 year floodplain and much of the remainder in the 500 year floodplain. This map was drawn with limited topographic survey data and the floodplain boundaries were inexact. Since that time, new survey data has become available and a preliminary updated flood boundary map has been produced. The new map has been provided in FGEIS Figure 19A. However, the City of Niagara Falls has not yet adopted the revised floodplain map.

The houses located in the 100 year floodplain represent some of the best housing stock in the EDA. These houses possess an average condition rating of 8 (very good condition). This rating average is based upon standard rehabilitation criteria as well as the number of deficiencies each unit contains. A condition rating of 8 denotes that moderate repairs are required. No significant structural damage exists in the unit but possesses many broken windows and perhaps limited water damage. It would cost less than \$5,000 to repair the structure. LCARA does not want to demolish these units and replace them with park or open space since the units are in very good condition.

Before these housing units are placed on the active real estate market, each will be rehabilitated in conformance with the parameters identified in the City of Niagara Falls Floodplain Ordinance.

Implementation of the Love Canal Area Master Plan, especially the sale of housing units in EDA Sub-Areas 4 and 5, will not adversely impact or greatly increase the likelihood of severe flooding in the 100 year floodplain.

## C.6 Air Resources

Extensive air testing within the Love Canal EDA was conducted as part of the Habitability Study. The study was designed to detect low level, about 1 part per billion (ppb), concentrations of air LCIC's (Chlorotoluene and Chlorobenzene) in residential structures and in ambient air in the EDA. Samples were taken in each room of the first floor and basement of each residence as well as from the ambient air outside the house both before and after indoor sampling. A protocol was developed to isolate the source of any detected LCIC within a residence. The sampling was performed over four 2 week periods from July to December 1987 to account for the effects of any temporal variations on LCIC concentration measurements. Sampling was conducted during all hours of the day and night to account for the effects of any diurnal variations on LCIC measurements. All residential structures that were structurally sound, physically accessible and for which permission to enter could be obtained from the owner were entered and sampled.

In summary, of the 562 different homes sampled in the EDA, chlorotoluene was detected only in one home, and chlorobenzene was not detected in any home. There is no evidence to indicate that temporal, spatial or other variables influence air LCIC concentrations in EDA homes. Because LCIC's were detected in only one home, the importance of the effects of these variables on indoor air concentrations of LCIC's could not be determined.

Furthermore, while remediation activities are on-going, air testing is conducted by NYSDEC. Testing was done during the entire creek remediation process and will be undertaken with the remediation of the 93rd Street School site as well as with all other outstanding remediation efforts at the EDA. As of this date, no air contamination has occurred which has exceeded acceptable limits nor presenting any threat to human health.

During periods of active construction, while the Preferred Alternative is being implemented, standard construction practices must be implemented which will control the level of transient dust particles off-site.

No adverse impacts to air quality are expected during periods of outstanding remedial activities and active construction phases of the Preferred Alternative. No adverse impacts will result in the post resettlement/redevelopment period.

Overall, implementation of the Love Canal Area Master Plan will not have significant adverse impacts upon the air resources at the Love Canal EDA during all outstanding remedial activities as well as during phases of new construction.



### C.7 Terrestrial and Aquatic Ecology

The Love Canal EDA contains no rare endangered plants, although one species, the Sky-Blue Aster, was identified as possibly existing on the site. A plant survey was conducted and no trace of the Sky-Blue Aster was found. However, another protected species, the Closed Gentian, was discovered off-site, south of the Class II wetland and west of 103rd Street. No trace of the Closed Gentian could be identified within the boundaries of the Love Canal EDA as per correspondence from Ms. Pat Eckel of the Buffalo Museum of Science, and therefore will not impact development activities at the Love Canal EDA. Ms. Eckel's correspondence is provided in FGEIS Appendix E.

No significant wildlife species exist at the Love Canal as per correspondence from the NYSDEC dated June 12, 1989. Being a highly urbanized area, identification of significant wildlife species is unlikely. Some local species of urban wildlife will be impacted in the areas to be remediated and developed, especially in Sub-areas 2 and 3 (i.e., squirrels, birds). There are no virgin timberland or wildlife habitats existing in Sub-Areas 4 - 7. Sub-Areas 2 and 3 have also been highly developed with single family residential units. The wetland area is the only undeveloped section of the EDA, although according to aerial photographs, the area was once utilized for farming activities.

Mr. Burrell Buffington of the NYSDEC Information Services, Wildlife Resources Center in Delmar, NY states that "Our files are continually growing as new habitats and occurrences of rare species and communities are discovered. In most cases, site specific or comprehensive surveys for plant and animal occurrences have not been conducted. For these reasons, we can only provide data which have been assembled from our files. We cannot provide a definitive statement on the presence or absence of species, habitats or natural communities...

This response only applies to known occurrences of rare animals, plants and natural communities and/or significant wildlife habitats...

If this project is still active one year from now we recommend that you contact us again so that we may update this response."

Therefore, there appears to be no significant terrestrial or aquatic ecological feature that would adversely affect the proposed action. However, as future phases of the Preferred Alternative are implemented further examination and analysis using NYSDEC data must be conducted.

## C.8 Transportation

The Love Canal EDA is presently serviced by a roadway network maintained by the City of Niagara Falls and the Town of Wheatfield. A full inventory of the streets within the Love Canal EDA maintained by the City of Niagara Falls is provided in FGEIS Appendix F. Proposed improvements are highlighted also. A full inventory of streets maintained by the Town of Wheatfield in the Love Canal is provided in FGEIS Appendix R.

In correspondence dated February 8, 1990 from Franklin E. White, Commissioner of the NYDOT, the Commissioner stated that development activity at the Love Canal EDA will not create any immediate adverse transportation impacts. The Love Canal project will simply restore the EDA to "pre-Love Canal" levels. This correspondence is provided under FGEIS Appendix A, Section 2.18, entitled New York State Department of Transportation.

Therefore, implementation of the Love Canal Area Master Plan will have no significant adverse impacts upon the existing on-site or off-site transportation networks and services.

## C.9 Land Use and Zoning

The Love Canal EDA is predominantly vacant land and buildings but and is scattered with approximately 60 active residential units primarily located in Sub-areas 2, 3, 4 and 5 and along the western side of 93rd Street. Most houses are boarded up and are only minimally maintained by LCARA.

The central portion of the EDA contains the canal where chemical contaminants have been contained and is the location of the former Ring I and Ring II houses. The area is presently a well manicured grassy space surrounded with an eight foot chain link fence and posted with hazardous waste signs.

The western portion of the site (Sub-areas 6 and 7) is predominantly vacant land which at one time was the location of two HUD sponsored housing projects. Only the vacant structures associated with the former elderly housing complex remain.

Surrounding the site to the west and north beyond the creeks are vibrant residential neighborhoods. To the east bounded by Williams Road, 102nd Street and the LaSalle Expressway is a greenspace area. Commercial strip development is occurring along the eastern side of Williams Road. To the south is the LaSalle Expressway, the 102nd Street Landfill, Griffon Park and the Niagara River.

The Preferred Alternative does not envision a significant change in land use at the Love Canal EDA with the exception of Sub-Areas 2 and 3 which have been identified for commercial and light

industrial development. Sub-areas 4 and 5 will remain as single family residential as will the western side of 93rd Street. The 93rd Street School Site will remain as an educational facility. Sub-areas 6 and 7 have been identified for medium density residential, a use not significantly different from the previously existing housing development in this area.

Refer to Findings Statement Section B.2 for more information regarding the impacts to remaining residents in EDA Sub-Areas 2 and 3. No adverse impacts are expected to remaining residents due to development of a phasing plan for Sub-Areas 2 and 3. Analysis of existing patterns of settlement in this area show that greatest number of remaining residents are located in the southern part of this area with smaller numbers in the north. Development will, therefore, proceed on a phased basis in Sub-Areas 2 and 3. Development of industrial office park uses would start in the north near Colvin Boulevard (Phase I) and proceed in southerly direction (Phases II and III).

As a consequence of the change in land use in Sub-areas 2 and 3, a zoning change will be required in both the City of Niagara Falls and Town of Wheatfield, a Type I action under SEQR, in order to accomodate proposed commercial activities in the area. However, the FGEIS could satisfy future SEQR review requirements if the City of Niagara Falls and Town of Wheatfield determines as a result of their findings, that the FGEIS contains sufficient information to base a zoning change decision upon.

#### C.10 Community Services

The following discussion of community services reflects the maximum development potential to be derived from the implementation of the Love Canal Area Master Plan. Development will not exceed the parameters identified previously and throughout the following discussion of community services.

##### C.10.1 Educational Facilities

The Love Canal EDA has traditionally been serviced by the City of Niagara Falls City School District and the Niagara Wheatfield Central School District.

The area of the Love Canal EDA serviced by the Niagara Wheatfield Central District includes 102nd Street (odd numbers only) and 103rd Street (numbers 413 - 497). Students living in these areas attend Errick Road Elementary, serving grades K-5; Edward Town Middle School, serving grades 6-9); and Niagara Wheatfield Senior High School, serving grades 10-12.

Schools servicing the Love Canal EDA within the City of Niagara Falls include the 95th Street School, located north of of the Bergholtz Creek (Geraldine Mann Grade School), the 79th Street School (elementary school), the LaSalle School (Junior High) and the Niagara Senior High School.

The Preferred Alternative, at full build-out, will generate approximately 400 + students spread across all grade levels. The City of Niagara Falls School District has stated that due to the expected increase in student enrollment resulting from development activities at Love Canal combined with other trends identified by the School District (e.g., specialized educational needs, after school programs, magnet schools, regional economic improvement) the 93rd Street School will once again be used as an educational facility.

The need for reuse of the 93rd Street School site as an instructional facility has been identified in correspondence from Mr. William Sdao, Superintendent of Schools, as well as in DGEIS public hearing comments given by Carmen S. Granto, Deputy Superintendent of Schools. Copies of both are provided in FGEIS Appendix S and Section 2.17 entitled City of Niagara Falls City School District, respectively.

#### C.10.2 Recreational Facilities

The Town of Wheatfield maintains no parks or other active recreation facilities in close proximity to the Love Canal EDA. The nearest park is the Riverfront Park located on River Road and Fairmount Park, located on Nash and Steig Roads. Both parks are heavily utilized. The Town also maintains five (5) satellite parks of which a new one is planned on Catherine Drive to replace the one taken to make room for the Summit Park Mall.

The City of Niagara Falls maintains a total of approximately 842 acres of parkland. Two recreational areas are located in proximity to the Love Canal EDA. Griffon Park has been closed due to chemical contamination from the 102nd Street Landfill. No time frame has been set for reopening the park. There is also a heavily utilized park located at 91st Street. Lastly, there are two softball diamonds located in the vicinity of 93rd Street which are also heavily utilized.

Due to the closure of Griffon Park and the heavy utilization of the above mentioned areas, there is a need and justification for additional parkland at the Love Canal EDA.

The Love Canal Area Master Plan provides for the development of new park areas/facilities to accomodate the needs of a redeveloped Love Canal. These areas, located in Sub-Areas 6 and 7 and the playground facilities at the 93rd Street School, will

alleviate overcrowded conditions at the 91st Street Park and will compensate for the closure of Griffon Park due to contamination from the adjacent 102nd Street Landfill.

The information provided above was obtained in a telephone conversation with a representative of the Niagara Falls Recreation Department dated June 19, 1989. A copy of a certified letter sent to the Niagara Falls Recreation Department requesting verification of this information is provided in FGEIS Appendix L.

#### C.10.3 Utilities

The Love Canal EDA is located within a highly urbanized area which contains extensive water and sewer system infrastructure. The Love Canal EDA is serviced by the City of Niagara Falls and the Town of Wheatfield. Expected loadings from a revitalized Love Canal, at full buildout, for water and sewer equal 390,000 gallons per day and 322,000 gallons per day, respectively. In a telephone conversation with Mr. Mike DeSantis of the City of Niagara Falls Engineer's Office dated June 7, 1989, an excess system capacity of 10 million gpd and 8 million gpd for water and sewer exists, respectively. Comparing anticipated loadings with the level of excess capacity, no adverse findings regarding adequacy of the utilities servicing the area have been identified.

Furthermore, during the course of the May 1988 round of sampling for the Long-Term Monitoring Program, a sample collected by the NYSDOH from storm sewer manhole (MH412) located on the storm sewer in Frontier Avenue was found to contain a small amount of Non-Aqueous Phase Liquid (NAPL) like material.

According to NYSDEC a tank access contract has recently been initiated. Under this contract, cleaning of a small stretch of Frontier Avenue sewer will occur as well as a sealing off of the stormwater catch basin and sewer.

The NYSDEC initiated closure of the Frontier Avenue sewer section will not impact the implementation of the Love Canal Area Master Plan.

#### C.10.4 Tax Revenues

Implementation of the Preferred Alternative, at full build-out, is anticipated to generate significant tax revenues to both the Town of Wheatfield and the City of Niagara Falls totaling \$436,940 and \$3,242,817, respectively. These totals are based upon current assessment rates, construction values and possible build-out value.

The impact upon the City of Niagara Falls and the Town of Wheatfield is considered to be highly beneficial.

#### C.10.5 Other Services

##### a. Police

The City of Niagara Falls is serviced by the City of Niagara Falls Police Department, located at 520 Hyde Park Boulevard.

The Town of Wheatfield is serviced by the Niagara County Sheriff's Office.

As per telephone conversations with the Town of Wheatfield Administrative Offices and the City of Niagara Falls Police Department dated June 19, 1989, no adverse impacts are expected to police services as a result of development activities at the Love Canal EDA.

##### b. Fire Services

The portion of the Love Canal EDA located in the Town of Wheatfield is provided by the Frontier Fire Company.

The portion of the Love Canal EDA located in the City of Niagara Falls is serviced by the Military Road Firehouse located at Military Road and Boullier Avenue and the 79th Street and Frontier Avenue Firehouse.

According to the City of Niagara Falls Fire Chief, no problems are currently experienced in providing fire protection services to the City of Niagara Falls. Since no problems existed before emergence of the Love Canal emergency, none are foreseen following resettlement/redevelopment.

Fire protection services are adequate for the Town of Wheatfield. No problems are foreseen in servicing a redeveloped EDA.

##### c. Library Facilities

As per telephone conversations with Diette Palmer, Town Clerk, Town of Wheatfield and the Niagara Falls Public Library on August 18, 1989, no adverse impacts to library facilities is expected as a result of development activities at the Love Canal EDA.

d. Postal Services, Health Care Facilities and Social Services

Postal service, health care facilities and social services will be adequate due to the large number of facilities available in the City of Niagara Falls and Town of Wheatfield.

C.11 Community Demographics

The Love Canal Area Master Plan, at full build-out, will generate approximately 2657 residents, not significantly higher than pre-Love Canal levels of approximately 2500 persons. Furthermore, approximately 2400 new employees will work in the Love Canal EDA light industrial/office park.

According to Anthony Girasole of Girasole Appraisal Company, there will be no impact upon the surrounding housing market, especially in the LaSalle Neighborhood located immediately adjacent to the Love Canal EDA, from the resale of housing units in Sub-areas 4 and 5 and along 93rd Street. There is presently a shortage of the type of housing unit to be put on the market from the Love Canal EDA in the LaSalle Neighborhood.

Furthermore, the present LCARA Board Policy is that homes will be placed on the market without having an adverse impact on the LaSalle housing market. It is the Long Range Planning Committee's opinion that 50 to 70 housing units per year absorption is an appropriate number. This number is tempered by the agency's ability to repair and rehabilitate houses. In the first year, the Agency intends to concentrate on houses which require minimal improvements. As more experience is gained, the housing units requiring more extensive rehabilitation will be developed. The Long Range Planning Committee has agreed that this decision will be reviewed either after the first year or the first 50 to 70 houses are sold to see if any policy modifications should be made.

A number of factors have influenced the LCARA Board's decision to accept this policy. The LaSalle housing market is the most active of the sub-areas tabulated by the Niagara Falls Board of Realtors. For the last several years, the market in LaSalle has been very strong with rising prices and lower "time on the market" figures. LCARA can adjust its program to avoid any significant adverse effect on the area housing market. LCARA continues to see significant buyer interest in EDA homes even though the Agency has not attempted to encourage such interest. At the present time the Agency has a list of over 180 families who have expressed an interest in purchasing a home.

Continuing discussions with Girasole Appraisal Company have occurred. Mr. Girasole feels that the proposed Benderson Mall, the Canadian Free Trade Agreement, the Summit Park Mall expansion project and other factors will result in a higher absorption number of 50 to 55 units per year.

As a result of the analysis conducted by Girasole Appraisal Company, of present real estate trends in the City of Niagara Falls, especially in the LaSalle Neighborhood, no adverse impacts are foreseen from the sale of housing units from the Love Canal EDA in terms of sales prices and length of time a unit remains on the market. This conclusion has been supplemented by further research by LCARA.

#### C.12 Cultural Resources

##### C.12.1 Historic and Archaeological Resources

###### a. Historic Resources

No survey of historic properties has ever been conducted at the Love Canal EDA by the New York State Office of Parks, Recreation and Historic Preservation. All applicable regulations set forth by the United States Department of the Interior and New York State Office of Parks, Recreation and Historic Preservation will be adhered to in respect to surveying buildings 50 years and older at the Love Canal EDA.

The LCARA Board at its regular meeting of April 5, 1990 has stated that a historic survey of all properties 50 years and older meeting NYSOPRHP standards will be conducted before any demolition of housing stock occurs.

Due to LCARA's commitment to undertake a historic survey of all properties 50 years and older, demolition of a potentially historic unit will not prematurely, if at all occur at the Love Canal EDA.

###### b. Archaeological Resources

The New York State Museum has not identified any archaeologically significant resources at the Love Canal EDA in correspondence dated June 16, 1989. Therefore, no adverse impacts to archaeological resources will occur.

###### c. Noise Impacts

No adverse noise impacts will result due to a resettled/redeveloped Love Canal other than construction equipment during phases of active construction and noise



associated with a normal urban neighborhood and/or light industrial, commercial complex.

# CERTIFICATION OF FINDINGS TO APPROVE/FUND/UNDERTAKE

Having considered the Draft GEIS and the Final GEIS, and having considered the preceding written facts and conclusions relied upon to meet the requirements of 6 NYCRR 617.9, this Statement of Findings certifies that:

1. The requirements of 6 NYCRR Part 617 have been met;
2. Consistent with the social, economic and other essential considerations from among the reasonable alternatives thereto, the actions approved are ones which minimize or avoid adverse environmental effects to the maximum extent practicable; including the effects disclosed in the environmental impact statement, and
3. Consistent with social, economic and other essential considerations, to the maximum extent practicable, adverse environmental effects will be minimized or avoided by incorporating as conditions to the decision those mitigative measures which were identified as practicable.

Love Canal Area Revitalization Agency  
Name of Agency

James D. Heuer                      James D. Heuer  
Signature of Responsible Official      Name of Responsible Official

Secretary                                      June 13, 1990  
Title of Responsible Official              Date

9501 Colvin Boulevard, Niagara Falls, New York 14304  
Address of Agency